

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:10cv209**

HENRY MCKOWEN, Administrator)
of the estate of Mary Ann)
Castle, deceased,)
)
Plaintiff,)
)
vs.)
)
MICHAEL J. ASTRUE, Commissioner)
of Social Security,)
)
Defendant.)
_____)

ORDER

THIS MATTER is before the Court on the Plaintiff's Motion to Receive New and Material Evidence. [Doc. 15].

The instant claim stems from a final Agency denial of a December 30, 2004 application [T. 82] for a period of disability and Disability Insurance Benefits, claiming a period of disability that began with an onset date of April 1, 1998 and ended with a date last insured of March 31, 2003. [T. 21].

Among the three items that Plaintiff submits as new and material [Docs. 15-1 through 15-3], two are the holographic will and death certificate that this Court required Plaintiff to produce under a previous order.

Plaintiff's motion will be granted in part in order to receive those items which are now entered on the docket as Documents 15-2 and 15-3.

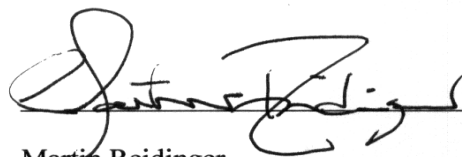
Document 15-1 is a Notice of Award of Social Security benefits addressed to Plaintiff's decedent, the same claimant in the instant case. [Doc. 15-1]. It clearly applies to a later claim period that began December 19, 2008 [Doc. 15-1 p. 1], a date which is more than 5 years after the end of the period at issue here. No statement of the applicable legal standard or the relationship between it and the proffer is offered.

For the reasons stated in this Court's Order entered July 12, 2011 in Jackson v. Astrue, 1:09cv467, Plaintiff's motion is denied as to Document 15-1.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Receive New and Material Evidence [Doc. 15] is **ALLOWED** as to the holographic will and death certificate [Docs. 15-2 and 15-3] for the limited purpose of effecting his compliance with this Court's Order of May 16, 2011. [Doc. 12].

IT IS FURTHER ORDERED that the Motion [Doc. 15] is **DENIED** as to the Notice of Award. [Doc. 15-1].

Signed: July 12, 2011


Martin Reidinger
United States District Judge

